

May 28, 1998

Mr. Erle Nye, Chairman
Board of Trustees
North American Electric Reliability Council
116-390 Village Boulevard
Princeton, New Jersey 08540-5731

RE: Implementation of a North American Electric Reliability Organization

Dear Mr. Nye:

The State of California urges that the charter of the North American Electric Reliability Organization (NAERO) provide that decisions relating to reliability within discreet electrical interconnections be deferred to and treated as rebuttable presumptions by the continent-wide organization. Although we appreciate language in the task force reports that you are reviewing to the effect that NAERO should defer to regional decisions by allowing the regions to seek a variance from continent-wide standards that NAERO may adopt, we believe this language misplaces the burden of persuasion in striking the correct balance between regional and continent-wide standards. For the reasons set forth in this letter, we urge the NERC Board of Trustees to make the rebuttable presumption for regional decisions a guiding principle of NAERO.

We are in concurrence with the comments of the Western Interstate Energy Board's Committee on Regional Electric Power Cooperation which state that, "[t]here are important electrical differences between the Western Interconnection . . . the Eastern Interconnection and the Texas and Quebec grids. Decisions on the reliability of the Western Interconnection have few, if any, electrical impacts on the other electric grids."¹ Just as important as these observations, decisions setting the level of reliability within an interconnection will require potentially very large investments which will impose costs that must be paid by the consumers of electricity within that interconnection. Should NAERO be formed with a charter that encourages the development of continent-wide deterministic standards, the result could be either (1) that some regions will be forced to over-invest in reliability, protecting against events with an extremely low probability of ever occurring, or (2) that as a result of strong opposition to such imposed investments, continent-wide reliability standards might be weakened to the point where some regions will under-invest, and consumers will bear the cost of inadequate reliability in those regions. Because of the complexity of the systems involved and the huge capital expenditures that could be required to meet various potential standards, it is extremely important that the decisions setting and enforcing reliability standards be made first in each of the affected regions where there is detailed understanding of the particular systems and opportunity for affected interests to be heard. Once the decisions have been made within an interconnection on the amount of investment needed to provide electric system reliability within that region, those decisions should not be upset unless NAERO can affirmatively make the case that the regional decision process was flawed (i.e. some important interests were not given a fair hearing) or that the decision has substantial adverse effects on other regions.

California asks the NERC Board to recognize that granting this level of deference does not mean that NAERO cannot and should not have a supervisory role to ensure that decisions made at the

¹ April 29, 1998 letter from Roger Hamilton, chairman of the Committee on Regional Electric Power Cooperation to Mr. Erle Nye, chairman of the North American Electric Reliability Council.

interconnection level (1) do not impose unreasonable externalities on other regions and (2) are not made without a fair hearing for all sides of the issue. We recognize that there are some decisions (e.g. the format for tags or OASIS screens) that arguably should be made at the continent-wide level for the sake of uniformity and ease of commercial transactions. The rebuttable presumption test that we ask NAERO to accept is easily overcome in such cases. What we seek, however, is a commitment that NAERO will accept the burden of justifying the imposition of a continent-wide standard when a more locally-based solution has been developed, is acceptable within that interconnection, and does not unduly impose costs on other regions. Without that commitment, it will be hard for many to support the creation of a continent-wide organization that will have the authority to impose huge costs on regions, possibly with an inadequate understanding of the consequences of its action and with little opportunity on the part of those who will bear those costs to feel that their voices have been heard. The current proposal to allow regional reliability organizations to seek variances from NAERO standards does not resolve this issue because it places the burden on the region to justify its decisions rather than recognizing the presumptive validity of those decisions in the absence of proof to the contrary.

California also believes that because reliability decisions will often have major impacts on public interests that have traditionally been the concern of state agencies, those agencies should have a role in the governance of reliability organizations within their regions. There are many possible ways to address this need. We would suggest that the governance of regional reliability organizations should also include at least one member of the NAERO Board and/or a representative of the Federal Energy Regulatory Commission in order to promote both regional understanding of continent-wide perspectives and an understanding at the continent-wide level of the issues debated and resolved at the regional level. This might help make NAERO overrides of regional decisions a relatively rare event.

Thank you for the opportunity to comment on the ongoing effort to establish a North American Electric Reliability Organization. Please inform the Board of NERC of these views of the State of California.

Sincerely,

WILLIAM J. KEESE
Chairman,
California Energy Commission

P. GREGORY CONLON
Commissioner
California Public Utilities Commission